statutory Pleading Code is the location of the Rules for Summary Judgment specified. This Appendix pages 10 to 13 .

The fact that the District Court Rule 13 and the accelerated appeal procedure are " designed to improve the likelihood of affirmance" (Muchmore, supra.) means justice has taken a back seat to the concept of reduction of case load. Exhibit 1 shows that slighting justice has not reduced case load.

2. Pro Se Practice

The ex parte Case Notebooks referred to as "niceties of the law" (Petition Appendix page 51 lines 10 to 12) and as an " aid to the court" (Petition Appendix page 48 , line 1 , and Petition Appendix pages 111 to 113 , and Petition Appendix page 166 , exerpt : page 5 , paragraph 1.) provide attorneys with clandestine, exclusive off-the-record access to the judge. That may make the judge's job easier but the practice violates the citizen's Fourteenth Amendment right to an impartial tribunal.

As a pro se litigant, I was able to ask questions an attorney would not ask for fear of retribution. And, these questions had to be responded to.

A certain amount of time was necessary to elicit and develop the necessary proof of the extent and content of the ex parte communication between the opposing counsel and the judge.

Plaintiff/Appellant/Petitioner Robert Olson refiled the original Blaine County, Oklahoma case CJ-2002-151 as Blaine County, Oklahoma case CJ-2004-121within the one-year limitation under O.S. Title 12 § 100. Case CJ-2004 - 121 was dismissed on summary judgment by Judge Franklin. The case has been appealed to the Oklahoma Supreme Court as Case Number # 102398. Oklahoma Supreme Court Rule 1.36 currently governs summary judgment appeals. This Appendix pages 14 to 21 .

Appellant Robert Olson requested the normal appellate procedure which included briefs. The Oklahoma Supreme Court denied that request and imposed Oklahoma Supreme Court Rule 1.36. This Appendix pages 22 to 25 .

On February 2, 2006, Plaintiff/Appellant Robert Olson filed a Request for Permission to File a Brief in Appeal Case # 102,398. This filing included unambiguous notice of apparent conflict of District Court Rule 13 and Oklahoma Supreme Court Rule 1.36 with the Due Process of Law provision of the Fourteenth Amendment of the United States Constitution. This Appendix pages 26 to 32.

The response of the Oklahoma Supreme Court to notice of potential conflict between Oklahoma District Court Rule 13 and Oklahoma Supreme Court Rule 1.36 with the Due Process of Law provision of the Fourteenth Amendment of the United States Constitution was: "Consideration, if any, of Appellant's request for permission to file a brief under Oklahoma Supreme Court Rule 1.36(g) is deferred.". This Appendix pages 33 to 35.

Plaintiff/Appellant/Petitioner Robert Olson is not the only appellant who seeks an appeal path that is not Oklahoma Supreme Court Rule 1.36. This Appendix page 34 Case Number # 102,932.

3. Fiduciary Duty -- New Law

In Goodall v. Trigg, 944 P.2d 292, 138 Oil and Gas Rep. 118, 1997 OK 74, Vice Chief Justice Summers writes that the fiduciary duty would "...impose too onerous a burden on the operator.". And "While Oklahoma case law has not enunciated the exact nature of the special relationship between a royalty owner and an operator, nearly all cases have agreed that a special relationship exists."

In case law discussions of the contract relationships in oil and gas deals, the leasing contract and the operating agreement have received much attention. However, the bridging contract (the working interest participation agreement) has not received much attention. Since the royalty and override interests are not signatories of the participation agreement, they are deemed not privy to those agreements and thus deemed not entitled to a copy of the agreement; even though the royalty and override are affected by the terms of that agreement (ie: the net revenue interest).

To the royalty and override interest owners, the key element of the working interest participation agreement is the Net Revenue Interest. The working interest participation agreement is subject to the Net Revenue Interest. Through the participation agreement, the working interest owners pay, or cause to be paid, all royalty and override interest revenues. Thus the royalty and override interest owners are creditor beneficiaries of the working interest participation agreements. The working interest participation agreement specifies who pays for what and who receives what.

The operating agreement specifies how the working interest participation agreement will be carried out. The operating agreement is a service contract to the working interest owners. Thus, the royalty and override interest owners are third party creditor beneficiaries of the of the operating agreement and are thereby due a straight fiduciary duty from the operator. This Appendix page 36 This relationship has not been recognized or discussed in previous case law. The participation agreements rarely see the light of day in legal actions. These agreements should be asked for in discovery. The Division Orders are tangible evidence of the existence of the participation agreements and their recognition of the royalty and override owner's interests and recognition by these agreements that they are subject to the royalty and override lease burdens.

In Oklahoma , operators asked and received the authority from the Oklahoma Legislature to distribute oil and gas revenues. (Title 52 Okl. St. Ann. § 570). This additional authority gives the operator control of operations and control of revenues. This control and subsequent necessary reliance from the rightful recipients of revenue. should also impose fiduciary duty on the operator. After all, those distributed revenue proceeds are Other People's Money.

The position of third party creditor beneficiary of the override was recognized in everything but name in Phillips v. Taylor, 116 F.2d 994, 313 U.S. 565, 61 S. Ct. 941.

For a tenant of an oil and gas lease (the operator) to use this service contract (the operating agreement) to enrich himself at the expense of any or all of his joint venture

partners (including the royalty and override interests) is to violate the fiduciary duty owed to his joint venture partners.

4. New Legislation.

Exhibit 1 indicates there is a problem in the Oklahoma District Courts. I have been told that this has long been recognized but there was nothing but complaints to work with. This case has provided enough concrete evidence to begin reform.

New legislative initiatives would increase the Council on Judicial Complaints from 3 members to 5 members. The two additional members shall not be members of the Oklahoma Bar Association. The Court on the Judiciary would be increased to 13 members. Four new members shall not be members of the Oklahoma Bar Association. This Appendix pages 37 to 42.

Under current rules, the Council on Judicial Complaints is limited to proceeding on judicial offenses requiring impeachment or dismissing the complaint. The new legislation provides for intermediate reprimand for judicial offences that do not rise to the level requiring dismissal or compulsory retirement.

I have been told this legislative initiative has been voted out of the Oklahoma House of Representatives Judiciary Committee on an 11 to 1 vote. This legislative initiative is now in the Oklahoma Senate, sponsered by the Chairman of the Senate Judiciary Committee.

5. Discussion and Prayer

The first procedure most civil cases in Oklahoma face after Petition and Answer is a motion for summary judgment. As has been discussed above, the recipient of

the Oklahoma District Court Rule 13 summary judgment motion (before discovery and without oral argument) is at a significant Due Process of Law disadvantage, especially if the respondent is unknowingly facing a clandestine ex parte Case Notebook, hand delivered to the judge. Exhibit 1 is an indication of the citizen's outrage at this situation.

In this United States appeal (05-1057), Petitioner Robert Olson asks that:

A. Judge Franklin be disqualified for violation of the Code of Judicial Conduct Canon 3B (6) and Canon 3B (6)(a).

B. Judge Franklin should be disqualified because the summary judgment in Case CJ-2002-151 was pronounced before substantial discovery and without oral argument. This prevented the Plaintiff, Robert Olson, from fully developing his side of the case (lack of discovery) and prevented the Plaintiff, Robert Olson, from fully being able to present his side of the case to the court and to the record.

C. The actions of the opposing counsel in providing the ex parte Case Notebook violated the Oklahoma Rules of Professional Conduct Rule 3.5 by not providing the opposing party a copy of the ex parte communication with the judge and thereby prevented the Plaintiff, Robert Olson, having the opportunity to respond.

D. The actions of the Judge and opposing counsel constituted extrinsic fraud practiced on the Plaintiff/ Appellant/Petitioner, Robert Olson, which did not allow response to the ex parte Case Notebook and thus prevented him from fully and compltetly presenting his side of the case to the court and to the record.

E. Petitioner Robert Olson prays the Okalhoma Supreme Court decision in Case # 101682, the Court of Civil

Appeals Case # 99704 be reversed. and the judgments in Blaine County, Oklahoma Cases CJ-2002-151 and CJ-2004-121 be vacated.

F. Oklahoma Presiding Judge Linder has declared from the bench that the ex parte Case Notebooks are commonplace. Petition Appendix pages 32 to 36 and page 51. The opposing counsel provide the ex parte Case Notebooks as a matter of course to provide an "aid to the court". Petition Appendix page 48. This would indicate the practice is ingrained in the practice of law in Oklahoma District Courts. That means outlawing the practice of providing the ex parte Case Notebooks would only drive the practice further under the table.

The Petitioner, Robert Olson, prays the Court find that when any party provides a Case Notebook to the Judge, the Case Notebook becomes an official document in the case as defined by O.S. Title 21 §461, Petition Appendix page 74, as soon as it is received by the Judge. As such, copies of the Case Notebook are required to be served on the Opposing Parties and included in the official record of the case. Also, the Opposing Parties are allowed a reasonable time to respond.

Respectfully submitted.

Robert Olson

Robert Olson
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918 252 1987

APPENDIX

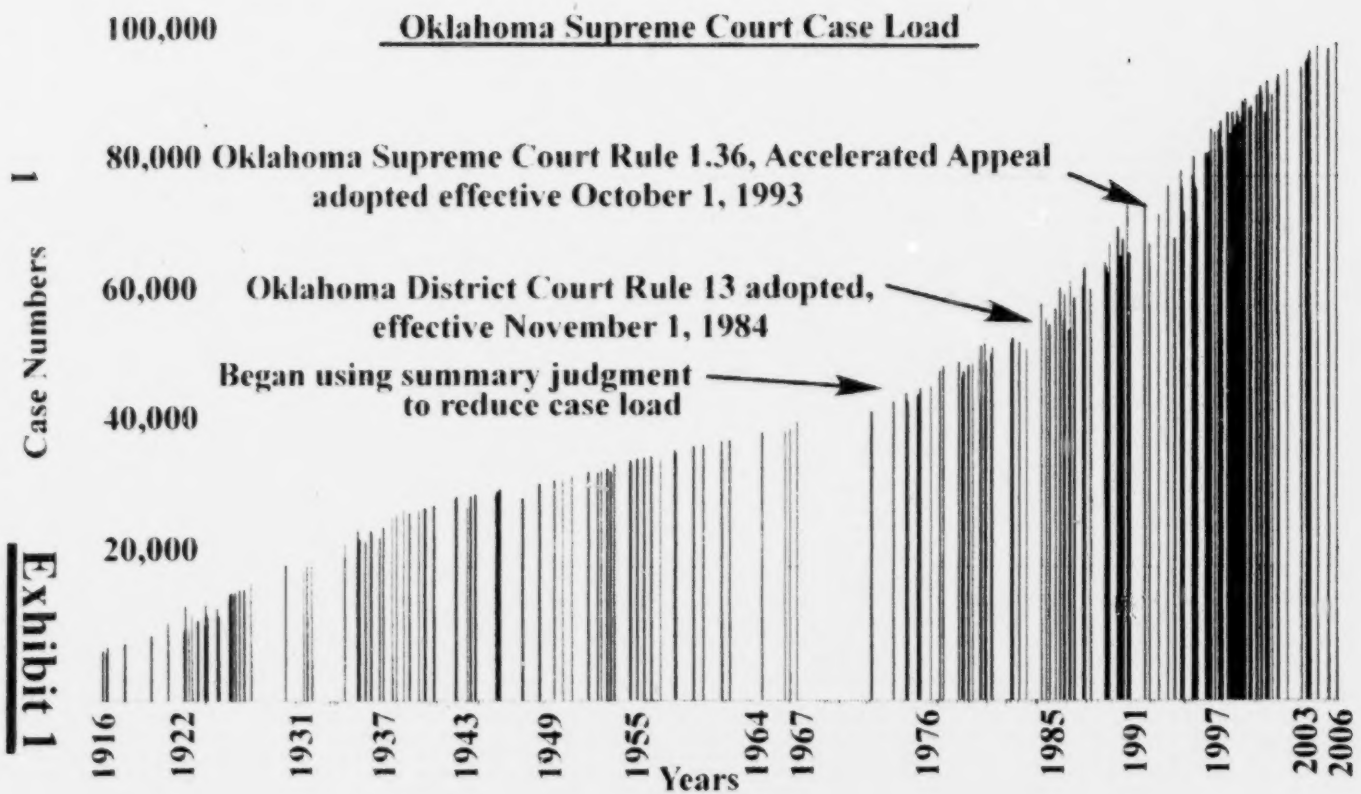
Oklahoma Supreme Court Case Load
100,000
80,000
60,000
40,000
20,000
Case Numbers
Oklahoma Supreme Court Rule 1.36, Accelerated Appeal adopted effective October 1, 1993
Oklahoma District Court Rule 13 adopted, effective November 1, 1984
Began using summary judgment to reduce case load
1916
1922
1931
1937
1943
1949
1955
1964
1967
1976
1985
1991
1997
2003
2006
Years

Exhibit 1

RULES FOR DISTRICT COURTS OF OKLAHOMA

Adopted Effective January 1, 1982

Including Amendments Received Through

November 1, 2004

Research Note

Annotations to the Rules for District Courts of Oklahoma are available in Oklahoma Statutes Annotated, *Title 12, Chapter 2, Appendix 1, and in the OK-RULES database on* Westlaw. Westlaw *may also be used to search for specific terms in court rules or to update court rules. See the OK-RULES and OK-ORDERS Scope Screens for further information.*

Amendments to these rules are published, as received, in the P.3d *and* Oklahoma Decisions *advance sheets.*

RULE 13. SUMMARY JUDGMENT OR SUMMARY DISPOSITION OF ISSUES

a. A party may move for either summary judgment or summary disposition of any issue on the merits on the ground that the evidentiary material filed with the motion or subsequently filed with leave of the court show that there is no substantial controversy as to any material fact. The motion shall be accompanied by a concise written statement of the material facts as to which the movant contends no genuine issue exists and a statement of argument and authority demonstrating that summary judgment or summary disposition of any issues should be granted. Reference shall be made in the statement to the pages and paragraphs or lines of the evidentiary materials that are pertinent to the motion. Unless otherwise ordered

by the court, a copy of the material relied on shall be attached to the statement.

The motion may be served at any time after the filing of the action, except that, if the action has been set for trial, the motion shall be served at least twenty (20) days before the trial date unless an applicable scheduling order establishes an earlier deadline. The motion shall be served on all parties and filed with the court clerk.

b. Any party opposing summary judgment or summary disposition of issues shall file with the court clerk within fifteen (15) days after service of the motion a concise written statement of the material facts as to which a genuine issue exists and the reasons for denying the motion; provided, however, that a responsive statement shall not be due from a party earlier than forty-five (45) days after service of the first summons by, or upon, that party. Unless otherwise ordered by the court, the adverse party shall attach to the statement evidentiary material justifying the opposition to the motion, but may incorporate by reference material attached to the papers of another party. In the statement, the adverse party or parties shall set forth and number each specific material fact which is claimed to be in controversy and reference shall be made to the pages and paragraphs or lines of the evidentiary materials. All material facts set forth in the statement of the movant which are supported by acceptable evidentiary material shall be deemed admitted for the purpose of summary judgment or summary disposition unless specifically controverted by the statement of the adverse party which is supported by acceptable evidentiary material. If the motion for summary judgment or summary disposition is granted, the party or parties opposing the motion cannot on appeal rely on any fact or material that is not referred to or included in the statement in order to show that a substantial controversy exists.

c. The affidavits that are filed by either party shall be made on personal knowledge, shall show that the affiant is competent to testify as to the matters stated therein, and shall set forth matters that would be admissible in evidence at trial. The admissibility of other evidentiary material filed by either party shall be governed by the rules of evidence. If there is a dispute regarding the authenticity of a document or admissibility of any submitted evidentiary material, the court may rule on the admissibility of the challenged material before disposing of the motion for summary judgment or summary disposition. A party challenging the admissibility of any evidentiary material submitted by another party may raise the issue expressly by written objection or motion to strike such material. Evidentiary material that does not appear to be convertible to admissible evidence at trial shall be challenged by objection or motion to strike, or the objection shall be deemed waived for the purpose of the decision on the motion for summary judgment or summary disposition. If a trial of factual issues is required after proceedings on a motion for summary judgment or summary disposition, evidentiary rulings in the context of the summary procedure shall be treated as rulings in limine.

d. Should it appear from an affidavit of a party opposing the motion that for reasons stated the party cannot present evidentiary material sufficient to support the opposition, the court may deny the motion for summary judgment or summary disposition without prejudice or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just. A motion filed pursuant to this paragraph shall not be deemed a consent to the exercise by the court of jurisdiction over the party, or a waiver of the right to file a motion to dismiss the action.

e. If it appears to the court that there is no substantial controversy as to the material facts and that one of the parties is entitled to judgment as a matter of law, the court shall render judgment for said party.

If the court finds that there is no substantial controversy as to certain facts or issues, the court may enter an order specifying the facts or issues which are not in controversy and direct that the action proceed for a determination of the remaining fact or issues. An order denying either summary judgment or summary disposition is interlocutory and is not reviewable on appeal prior to final judgment.

f. The serving of a motion for either a summary judgment or a summary disposition of issues before a responsive pleading is served where a responsive pleading is permitted does not preclude the opposing party from amending the pleading without leave of court. If a motion for either a summary judgment or summary disposition is served after the case is at issue, the hearing on the motion and the pretrial conference may, in the discretion of the court, be held ai one time. A court may decide a motion for either a summary judgment or summary disposition without a hearing, and where this is done, the court shall notify the parties of its ruling by mail.

g. The pleadings or the pretrial conference order may be amended either before or during the hearing on a motion for either summary judgment or summary disposition under this rule, and the court may continue the hearing to a subsequent time. After a court grants a judgment under this rule, neither the pleadings nor the pretrial conference order may be amended by the addition of allegations in regard to any fact which was known to the party and which could have been presented at the hearing on the motion, and a motion for a motion for a rehearing or for a new trial on the ground of newly discovered evidence must comply

with the provisions of 12 O.S. §655.

h. Judgments entered on motion for summary judgment or appealable summary disposition are subject to accelerated appellate review under Rule 1.36 of the Oklahoma Supreme Court Rules. The record on appeal will be limited to:

(1) the memorialized entry of judgment; in multi-party or multi-claim cases the judgment or dismissal order must *either* (1) dispose of all claims and all parties or

(2) entirely dispose of at least one claim or one party *and* contain the express determination that there is no just reason for delay with the express direction by the trial judge that judgment be filed. See 12 O.S. § 994.

(2) pleadings proper as defined by 12 O.S. §2007(A);

(3) applicable instruments on file, including the motion and response with supporting briefs and materials filed by the parties as proscribed by subsections (a) and (b);

(4) any other item on file which, according to some recitation in the trial court's written journal entry or in some other order, was considered in its decision;

(5) any other order dismissing the claim or determining the issues as to some but not all parties or claims;

(6) any transcripts of the hearing on the motion; and

(7) any motions, along with supporting and responsive briefs, for a new trial (re-examination) of summary judgment or appealable summary disposition process.

[Withdrawn and replaced effective November 1, 1984; amended June 29, 1993; amended effective September 16, 2002.]

Publisher's note: Section 4 of the order of September 16, 2002 provides in part: "The amendments to District Court Rules 4 and 13 made by this Order shall take effect thirty days after this Order is filed with the Clerk of the Supreme Court" [September 17, 2002].

SELECTED EXERPTED QUOTES FROM:

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LexisNexis

Section 1005 SUMMARY JUDGMENT

In state practice in Oklahoma, summary judgment procedure is governed by Dist. Ct. Rule 13, the purpose of which "is to relieve the courts of useless trials on issues that cannot be supported factually." Fraser, *Summary Judgment Where Facts Are Not Controverted*, 51 O.B.J. 1611 (1980).

Importance of Considering Appellate Procedure When Filing Motion

A motion for summary judgment is governed by strict procedures relating to appellate review, prescribed by Sup. Ct. R. 1.36, and referred to in Dist. Ct. Rule 13(h). These appellate procedures must be considered *before* filing a motion for summary judgment, because in the event of an

appeal, the parties are limited to presenting to the appellate court *only* those materials (usually including *briefs*) which were presented to the trial court. On a motion for summary judgment , therefore, the parties are making their presentation to *both* courts in the event of an appeal.

Relationship Between Federal and State Law

Although other Oklahoma laws modeled after the Federal Rules of Civil Procedure have been codified, summary judgment procedures remain nonstatutory, as they were prior to the adoption of the Oklahoma Pleading Code. (footnote 4. = There are statutory references to summary judgment, in 12 O.S. S 2012(A), (B) and (C).) Dist. Ct. Rule 13 sets forth the Oklahoma procedures for summary judgment, and Dist. Ct. Rule 4, relating to motions generally, is also applicable.

Supporting and Opposing Papers

The party opposing summary judgment must file a response within 15 days after service of the motion, except that no response is due earlier than 45 days after that party has first either served or been served with a summons. Dist. Ct. Rule 13(b).

Standards for Ruling

Malson v. Palmer Broadcasting Group, 1997 OK 42, pgrf 11, 936 P.2d 940, 942. "It is not the purpose of summary judgment to substitute trial by affidavit for a trial according to law."

Judicial Trend on Review

Summary judgments are similar to judgments on the pleadings, which are not favored by the courts. Smith v. Farmers Cooperative Ass'n, 1992 OK 11, prgf 8, 825 P.2d 1323, 1326.

The impact of the trend toward more favorable treatment of motions for summary judgment has arguably also been felt in the Oklahoma state court system, even if the Oklahoma Supreme Court does not subscribe to all the tenets of the U.S. Supreme Court's trilogy. Nevertheless, in the past, summary judgments have not fared well on appeal, with more than half reversed. The accelerated appellate procedure described above is designed to improve the likelihood of affirmance, by requiring parties opposing summary judgments to make all their arguments clearly known to the trial court.

CIVIL PROCEDURE

OKLAHOMA PLEADING CODE

O.S. §2012

§ 2012. Defenses and Objections -- When and how presented -- By pleading or motion

DEFENSES AND OBJECTIONS; WHEN AND HOW PRESENTED; BY PLEADING OR MOTION

A. WHEN PRESENTED. 1. Unless a different time is prescribed by law, a defendant shall serve an answer:

a. within twenty (20) days after the service of the summons and petition upon the defendant,

b. within twenty (20) days after the service of the summons and petition upon the defendant, or within the last day for answering if applicable; provided, a defendant may file a reservation of time which shall extend the time to respond twenty (20) days from the last date for answering. The filing of such a reservation of time waives defenses of paragraphs 2, 3, 4, 5, 6, and 9 of subsection B of this section.

2. A party served with a pleading stating a cross-claim against that party shall serve an answer thereto within twenty (20) days after the service upon the party.

3. The plaintiff shall serve a reply to a counter-claim in the answer within twenty (20) days after service of the answer or , if a reply is ordered by the court, within twenty (20) days after service of the order, unless the order otherwise directs.

4. The party requesting a summons to be issued or filing a counter-claim or cross-claim may elect to have the answer served within thirty-five (35) days in lieu of the twenty (20) days set forth in this section.

5. The service of a motion permitted under this section or a motion for **summary judgment** alters these periods of time as follows: if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within twenty (20) days after notice of the court's action, unless a different time is fixed by order of the court.

B. HOW PRESENTED. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the be made by motion:

1. Lack of jurisdiction over the subject matter;
2. Lack of jurisdiction over the person;
3. Improper venue;
4. Insufficiency of process;
5. Insufficiency of service of process;
6. Failure to state a claim upon which relief can be granted;
7. Failure to join a party under section 2019 of this title;
8. Another action pending between the same parties for the same claim;
9. Lack of capacity of a party to be sued; and
10. Lack of capacity of a party to sue.

A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading

or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the adverse party may assert at the trial any defense at law or fact to that claim for relief. If, on a motion asserting the defense numbered 6 of this subsection to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are are presented to and not excluded by the court, the motion shall be treated as one for **summary judgment** and all parties shall be given reasonable opportunity to present all material made pertinent to the motion by the **rules for summary judgment.** A motion to dismiss for failure to state a claim upon which relief can be granted shall separately state each omission or defect in the petition, and a motion that does not specify such defects or omissions shall be denied without a hearing and the defendant shall answer within twenty (20) days after notice of the court's action.

C. PRELIMINARY HEARINGS. The defenses specifically enumerated in paragraphs 1 through 10 of subsection B of this section, whether made in a pleading or by motion, and the motion to strike mentioned in subsection D of this section shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial. If the court determines that venue is proper, the action shall not be dismissed for improper venue as a result of the jury's verdict or the subsequent ruling of the court on a demurrer to the evidence or a motion for a directed verdict.

D. MOTION TO STRIKE. Upon motion made by a party before responding to a pleading or, if no responsive

pleading is permitted by this act, upon motion made by a party within twenty (20) days after the service of the pleading upon the party or upon the court's own initiative at any time, the court may order striken from any pleading any insufficient defense. If, on a motion to strike an insufficient defense, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for **partial summary judgment** and all parties shall be given reasonable opportunity to present all materials made pertinent to the motion by the **rules for summary judgment.**

. . . . .

F. WAIVER OR PRESERVATION OF CERTAIN DEFENSES.

1.

.

.

4. A waiver of the defense in paragraph 6 of subsection B of this section does not preclude a later contention that a party is not entitled to any relief as a matter of law, either by motion for **summary judgment** , or by demurrer or motion at or after trial.

OKLAHOMA SUPREME COURT RULES

Effective January 1, 1997

Including Amendments Received Through November 1, 2004

Research Note

Annotations to the Oklahoma Supreme Court Rules are available in Oklahoma Statutes Annotated, *Title 12, Chapter 15, Appendix, and in the OK-RULES database on* Westlaw. Westlaw *may also be used to search for specific terms in court rules or to update court rules. See the OK-RULES and OK-ORDERS Scope Screens for further information.*

Amendments to these rules are published, as received, in the P.3d *and* Oklahoma Decisions *advance sheets.*

PART II. APPEALS FROM JUDGMENT OR FINAL ORDERS OF THE DISTRICT COURT

RULE 1.36 ACCELERATED PROCEDURE FOR SUMMARY JUDGMENTS AND CERTAIN DISMISSALS

(a) Cases Applied. The Rule 1.36 accelerated procedure will govern appeals from:

1. summary judgments in cases in which the motions were filed under District Court Rule 13 after October 1, 1993; and
2. final orders in cases in which motions to dismiss for

failure to state a claim or lack of jurisdiction (of a person or subject matter) under District Court Rule 4 were filed after October 1, 1993.

In multi-party or multi-claim cases the summary judgment or dismissal order must either (1) dispose of all claims and all parties or (2) entirely dispose of at least one claim or one party and contain the express determination that there is no just reason for delay with the express direction by the trial judge that judgment be filed. See 12 O.S. Supp. 1995 § 994.

(b) Commencement of Appeal. Appeals in these cases will be commenced by filing a petition in error with the certified copy of dismissal order or of summary judgment and, where applicable, a certified copy of the order denying new trial, with payment of costs or an affidavit *in forma pauperis*. The petition in error must comply with all Rules to the extent they are consistent with Rule 1.36. The record shall be filed at the same time as the petition in error. Rule 1.36(d).

(c) Record on Appeal. The record on appeal will stand limited to:

(A) In appeals from summary judgment:

(1) the memorialized order by which summary judgment was entered;

(2) pleadings proper as defined by 12 O.S. 1991 § 2007(A), (petition, answer, etc.);

(3) applicable instruments on file, including the motion and response with supporting briefs and attached materials filed by the parties as required by District Court Rules 13(a) and 13(b);

(4) any other item on file which, according to some

recitation in the trial court's journal entry or in some other order, was considered in the decisional process;

(5) any other order dismissing some but not all parties or claims;

(6) any transcripts of proceedings on the motion(s);

(7) any motions, along with supporting and responsive briefs, for new trial (re-examination) of the summary judgment process;

(8) the appearance docket; and

(9) a cover page and Index of the record prepared by the party.

(B) In appeals from final orders on motioms to dismiss:

(1) the memorialized order of dismissal;

(2) pleadings proper as defined by 12 O.S. 1991 § 2007(A), (petition, answer, etc.);

(3) the instruments upon which the dismissal is rested;

(4) the motion(s) to dismiss and any supporting briefs;

(5) any responsive brief by the party asserting the claim;

(6) any other item on file which, according to some recitation in the trial court's dismissal order or in some other order, was considered in its decision;

(7) any other order dismissing some but not all parties or claims;

(8) any transcripts of proceedings on the motion;

(9) any motions, along with supporting and responsive briefs, for a new trial (re-examination) of the dismissal order;

(10) the appearance docket;

(11) a cover page and Index of the record prepared by the party.

(d) Record, Filing, Index, Copies, Transcripts, Costs, Supplement to Record, and Additional Copies on Certiorari. The record shall be filed by appellant as a separate document, not attached to the petition in error. The record shall be titled "Record on Accellerated Appeal," and shall be preceded by a separate page containing signature of counsel (or pro se parties) and a certificate of service, followed by an "Index to Contents of Record." The index shall use numeric references which shall correspond to tabs for each of the documents or transcripts included in the record. The record shall consist of copies of instruments authorized by Rule 1.36(c), selected for inclusion by the appellant. to the front of the original and each of the copies of the record there shall be appended the court clerk's certificate identifying each of the included instruments as a true and correct copy of the original on file in the court clerk's office.

An original and four (4) copies of the record and certificate of the clerk shall be filed. One copy shall be served on every other party to the appeal unless waived, and any such waiver must be reflected on the certificate of service.

An appellant who is an inmate, as defined by the provisions of 57 O.S. §566(B)(2), lawyerless and unable to produce the record required by this subsection, may attach to the petition in error an affidavit that discloses his (or her) prisoner status and sets out a designation of record to be assembled for the appeal. When such affidavit is filed, the Supreme Court's clerk shall order from the trial court's clerk the original record which is to be compiled in accordance with the inmate's designation in the text of his (or her)

affidavit. If the appealing inmate's pauper's affidavit is on file in this court, the record shall be prepared and transmitted to this court -- without payment of costs -- within thirty (30) days of the date of the inmate's affidavit (with designation of record) is transmitted to the trial court by this court's clerk.

It shall be the appellant's duty to order transcripts from the court reporter and to pay costs to ensure timely completion of transcripts. If the transcripts are not filed with the petition in error because of delay in transcription, no more than one 30-day extension of time to complete transcripts will be granted by the court for good cause shown.

If the appellee desires to include documents or transcripts not included by the appellant in the record on appeal, the appellee shall order any such transcript and file a separate document titled "Supplement to Record on Accelerated Appeal," attaching any instrument or transcripts in the same form and manner as required for an appellant under Rule 1.36 herein. Any such supplement to the record shall be filed concurrently with the Response to the petition in error. The cost of transcribing appellee-ordered portion of the record will be born by the appellant unless: (1) The trial judge finds that the portion supports a counter or cross-appeal, or (2) The trial judge directs otherwise for good cause shown. In the latter event the appellee shall pay the transcription fee.

In the event that any party files a petition for writ of certiorari to review a Court of Civil Appeals decision under this accelerated procedure, the Supreme Court may issue an order requiring the party who filed such a petition for writ

of certiorari to submit to the Supreme Court Clerk additional copies of the Record on Accelerated Appeal and any Supplement to Record on Accelerated Appeal.

(e) Response. Response(s) to the petition in error shall be filed within 20 days of the petition in error. If the appellee desires to include documents or transcripts not included by the appellant the appellee shall comply with Rule 1.36(d).

(f) Assignment of Appeal. After a response has been filed or the time for filing has expired, the appeal may be assigned to a division of the Court of Civil Appeals, unless initial screening is incomplete or there are unresolved jurisdictional, procedural or postural defects. Assignment to the Court of Civil Appeals shall be in the manner directed by the Chief Justice, with notice given to the parties.

(g) Appellate Review and Briefs. The appellate court shall confine its review to the record actually presented to the trial court. Unless otherwise ordered by the appellate court, no briefs will be allowed on review. If briefs are ordered, the appellate court will prescribe a briefing schedule. Motions for leave to submit appellate briefs shall be deemed denied unless affirmatively granted by the court. No briefs shall be tendered by attachment to a motion for leave to brief, and the clerk shall not accept or file an appellate brief without prior leave of the court. A motion for appeal related attorney's fees must be made by motion prior to mandate. See Rule 1.14.

(h) Oral Argument. Appeals may be decided pursuant to this rule with or without argument. If argument is granted and the appellate court should orally announce its decision from the bench, it shall also, as in other cases, hand down a memorandum opinion or order.

(i) Certiorari. Certiorari to review any decision of the Court of Civil Appeals made pursuant to this rule may be sought in the same manner as in any other appeal. The time for filing a petition for certiorari is governed by Rules 1.178, 1.179.

(j) Motion to Retain. Nothing in this rule shall prevent a party from requesting the Supreme Court to retain the case prior to its assignment to the Court of Civil Appeals. The assigned division of the Court of Civil Appeals may, on its own motion or on motion of a party, order any appeal removed from consideration by this accelerated procedure and reassigned for disposition by regular appellate process. In any such case the appellant shall be directed to designate the record on appeal, and the Notice of Completion of Record shall be due 60 days from the date of the order of this Court removing the appeal from the accelerated procedure.

(k) Appeals from Same Trial Court Case. An appeal governed by Rule 1.36 is prosecuted separately from another appeal from the same trial court case when the appeals challenge different appealable decisions. An Appeal subject to Rule 1.36 must be filed separately and accompanied by payment of costs in all cases except when it is a cross, counter, or co-appeal to an appeal governed by this Rule, or when filed as an amended petition in error as authorized by Rule 1.36(l). The petition in error for a cross, counter, or co-appeal shall have the accompanying record as required for a petition in error by this Rule.

The party filing a subsequent appeal shall clearly notify the court that prior or related appeals have been brought pursuant to Rule 1.36. An appeal governed by this rule may

be considered for consolidation or as a companion appeal pursuant to Rule 1.27 when appropriate.

(l) Amended Petition in Error on Post-judgment Order Granting Attorney's Fees, Interest, or Costs.

An amended petition in error challenging a post-judgment order granting or denying costs, interest, or attorney's fees may be filed in an appeal governed by Rule 1.36 when the order granting or denying costs, interest, or attorney's fees relates to the order previously appealed pursuant to Rule 1.36. The amended petition in error may be filed without payment of costs. The amended petition in error must be filed with this Court within thirty (30) days of the date of the order granting or denying the interest, costs, or attorney's fees. The record for the amended petition in error shall comply with Rule 1.36. The response to the amended petition in error shall comply with Rule 1.36(e). All provisions of Rule 1.36 apply to proceedings on the amended petition in error. Provided, an appellate court may, on application of a party or sua sponte, call for briefs on the amended petition in error.

[Effective January 1, 1997; amended by order of December 1, 2003.]

IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
NOV 29 2005
MICHAEL S. RICHIE
CLERK

Tuesday November 29, 2005

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:

102,086 - DORIS ANN ADAM V. JOHN FLEEGER, individually and JOHN FLEEGER dba ROLLING HILLS FARM

Appellee's motion to dismiss is denied because there is no jurisdictional issue raised in the motion. Rule 1.6 of the Oklahoma Supreme Court Rules. Appellee's motion for an extension of time within which to file a response to the petition in error is granted. The response shall be filed within 20 days of the date of this order.

102,398 - ROBERT OLSON V. CONTINENTAL RESOURCES, INC., ET AL.

The Court notes the appellant's motion for clarification. this is an appeal from an order dismissing two defendants and granting summary judgment as to the remaining defendant. This cause shall proceed according to Rule 1.36 of the Oklahoma Supreme Court Rules. Appellant shall file a record in compliance with Rule 1.36 within 20 days of this order.

101,358 - JOHN BROOKS V. JOHNNIE LEE FARRAR ET AL.

The Court notes that there has been no entry of appearance on behalf of the personal representative of the appellant. The personal representative is directed to show cause, not later than January 11, 2006, why this appeal should not be dismissed as abandoned. If there is no response to this order, this appeal may be dismissed without further notice. The Clerk of the Supreme Court is directed to mail a copy of this order to the parties and to Larry Lucas, attorney at law, 112 N. Witte, Poteau, OK 74953, and Norma Brooks, 25967 136th Avenue, Cameron, OK 74932.

102,637 - MIKEL SJATE V. DANIEL K. SOREN

The filing of the amended petition in error on November 21, 2005, with the November 18 dismissal order attached, appears to satisfy this Court's inquiry into its jurisdiction. This appeal may proceed.

s\ Joseph M. Watt
CHIEF JUSTICE

IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
DEC 9 2005
MICHAEL S. RICHIE
CLERK

Friday, December 9, 2005

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:

102,398 Robert Olson v. Continental Resources, Inc., an Oklahoma Corporation, Harold Hamm, an individual and President & Chief Executive Officer of Continental Resources, Inc..; Tom Luttrell, an individual and Vice President of Continental Resources, Inc., & Davis Operating Company & William H. Davis, an individual and President of Davis Operating Co.

Appellant is directed to comply with order. Motion or petition for rehearing is denied. Application for additional fifteen (15) days is granted.

102,416 Linda Hamner v. Helping Hands Home Health, Mega Life & Health Insurance Company, and the Workers' Compensation Court

Respondents are granted to December 9, 2005 to file their brief.

102,641 Johnny Walker v. Ryan Paul Fontenot

Appellant is directed to respond by December 15, 2005 to appellee's motion to correct record on appeal.

102,738 Countrywide Home Loans v. Dietrich Robinson & Jean Doe Robinson, John Doe & Jane Doe et al.

Requirement that record be filed by Decenber 12, 2005 is suspended pending conclusion of jurisdictional inquiry.

102,740 Sonya Jo Phillips n/k/a Sonya Jo Smith v. Ronnie Joe Phillips

Appellee's response to petition in error was accepted. Supplement to record will be accepted if filed by Decenber 16, 2005.

s\ Joseph M. Watt
CHIEF JUSTICE

IN THE SUPREME COURT
OF THE STATE OF OKLAHOMA

ROBERT OLSON, Plaintiff/Appellant vs. CONTINENTAL RESOURCES, INC., An Oklahoma Corporation, HAROLD HAMM, An Individual and President and Chief Executive Officer of Continental Resources, Inc., TOM LUTTRELL, An Individual and Vice President of Continental Resources, Inc., AND DAVIS OPERATING COMPANY, An Oklahoma Corporation, WILLIAM H. DAVIS, An Individual and President of Davis Operating Company Defendants/Appellees.	FILED SUPREME COURT STATE OF OKLAHOMA FEB 2 2006 MICHAEL S. RICHIE CLERK **#102398** Appeal Case No. CJ-2004-121 District Court Case Number

APPELLANT'S REQUEST FOR PERMISSION TO FILE A BRIEF IN SUPPORT OF HIS SIDE OF THE CASE UNDER OKLAHOMA SUPREME COURT RULE 1.36(g)

COMES NOW, the Plaintiff/Appellant, Robert

Olson, and requests permission from the Oklahoma Supreme Court to file a brief in support of his side of the case for the following reasons:

Under United States Supreme Court Rule 29 (4.)(c), which states:

> (c) In any proceeding in this Court in which the constitutionality of any statute of a State is drawn into question, and neither the State nor any agency, officer, or employee thereof is a party, the initial document filed in this Court shall recite that 28 U.S.C. § 2403 (b) may apply and shall be served on the Attorney General of that State. In such a proceedingfrom any court of the United States, as defined by 28 U.S.C. § 451, the initial document also shall state whether that court, pursuant to 28 U.S.C. § 2403 (b), certified to the State Attorney General that the constitutionality of a Statute of that State was drawn into question. See Rule 14.1(e)(v).

I, Appellant, Dr. Robert Olson, question the constitutionality of Oklahoma District Court Rule 13 as being in conflict with the Due Process of Law provisions of the Fourteenth Amendment of the United States Constitution. New evidence: a plot of Oklahoma Supreme Court Case Numbers versus Years from 1916 to 2006 (Exhibit 1), shows a dramatic increase in Oklahoma Supreme Court case load immediately after the present District Court Rule 13 was adopted and became effective on November 1, 1984. That dramatic increase in the

number of appeals is the citizens' howl of dismay at the unfairness of the nonstatutory District Court Rule 13. Justice is not a game of procedural "gotcha".

The party opposing summary judgment must answer within fifteen (15) days, must attach evidentiary materials before discovery and has no absolute right to oral argument. All of these elements of District Court Rule 13 impede the ability of the party opposing the motion for summary judgment to effectively present his side of the case.

Since Oklahoma Supreme Court Rule 1.36 on accelerated appeal, reviews only the materials presented to the trial court, the party opposing the motion for summary judgment may well find himself in the position of having to answer the original Petition, organize and present the in opposition to the motion for summary judgment before adequate discovery, and prepare for an appeal, all in fifteen (15) days. This is an unreasonably short amount of time. Motions to extend the time, at the discretion of the court, do not mitigate the conflict of District Court Rule 13 with the Due Process of Law provisions of the Fourteenth Amendment of the United States Constitution.

Adequate time, adequate discovery and oral argument are fundamental rights; not at the discretion of the court. Please see Goldberg v. Kelly, 397 U.S. 254, 90 S. Ct. 1011.

The implementation of District Court Rule 13 (Lewis v. Phillips Petroleum Co., Okla. App., 559 P.2d 868 (1977)) and Oklahoma Supreme Court Rule 1.36 (Oklahoma Civil Procedure Forms and Practice, 2nd Ed., Clyde A. Muchmore, Rel - 1-04, pg 10-55, paragraph 3) are designed for case load reduction rather that justice. These rules have not met the objective of case load reduction. Case load

reduction can be met by providing justice in legal proceedings.

District Court Rule 13 is the first procedure used in most District Court cases. The dramatic increase in Oklahoma Supreme Court appeal filings since November 1, 1984 is the citizens' reaction to the manifest injustice of District Court Rule 13. No matter what the attorneys and judges think, Exhibit 1 indicates the public perceives District Court Rule 13 as unjust.

United States Supreme Court Rule 14.1(g)(i) states:

> (i) If review of a state-court judgment is sought, specification of the stage in the proceedings, both in the court of first instance and in the appellate courts, when the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed on by those courts; and pertinent quotations of specific portions of the record or summary thereof, with specific reference to the places in the record where the matter appears (eg., court opinion, ruling on exception, portion of court's charge and exception thereto, assignment or error), so as to show that the federal question was timely and properly raised and that this Court has jurisdiction to review the judgment on a writ of certiorari. When the portions of the record relied on under this subparagraph are voluminous, they shall be included in the appendix referred to in the subparagraph 1 (i).

The taking of my vested personal property by the

court and giving it to the Defendants through a District Court Rule 13 summary judgment is a violation of the Due Process of Law provisions of the Fourteenth Amendment of the United States Constitution. References to that taking are throughout my filings in Blaine County, Oklahoma, District Court Cases CJ-2002-151 and CJ-2004-121 as well as Oklahoma Supreme Court Appeals # 99704 and # 101682.

The Pleading Statute Title 12 § 2012 mentions summary judgment four times: § 2012(A)(5.) [motion for], § 2012(B) [rules], § 2012(C) [application] and § 2012(D) [partial]. Nowhere in Title 12 § 2012 is the location of the rules for summary judgment specified. The rules do not have the gravitas of statutes. How can the application of the nonstatutory, discretionary District Court Rule 13 rules of summary judgment be considered "Due Process of Law" ?

As can be seen in Plaintiff/ Appellant's Motion for an Extension of Time, filed approximately September 10, 2005, Plaintiff/ Appellant was cut short on oral argument by the court at the hearing on summary judgment and not allowed to complete his oral argument. (Transcript of proceedings of August 11, 2005, before the Honorable Ronald G. Franklin, Exhibit C therein, page 5, Lines 19-21 and page 6, Lines 8 - 9).

Also, in the transcript of the hearing on Plaintiff's Motion for Recusal of Judge Ronald G. Franklin, held on January 13, 2005, before the Honorable Ray Dean Linder, on page 51, lines 4 - 5, it says: " and have lost a significant amount of income-producing property. " (underline by Appellant).

By this, the court has acknowledged the taking of vested

personal property. That should cause a significant Fourteenth Amendment, Due Process of Law, red flag to go up.

PRAYER

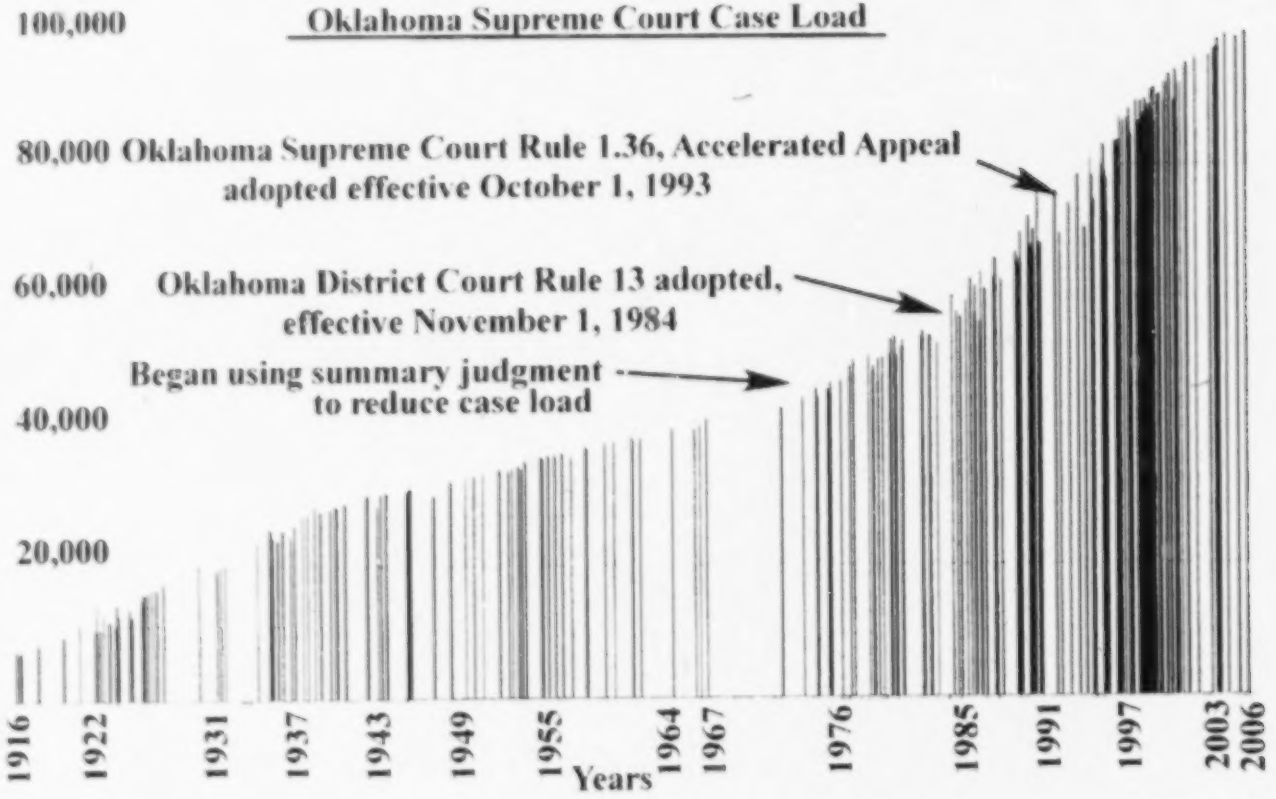
By virtue of the Fourteenth Amendment of the Constitution of the United States and Article 2 Section 7 of the Oklahoma State Constitution and with Title 12 §§ 3236, 3237 in mind, Plaintiff/ Appellant, Robert Olson, respectfully requests the opportunity to brief his side of the case to the Oklahoma Supreme Court.

Respectfully submitted

Robert Olson

Dr. Robert Olson
9022 E 60th Street
Tulsa, Oklahoma 74145
918 252 1987

Exhibit 1


Oklahoma Supreme Court Case Load
100,000
80,000
60,000
40,000
20,000
Case Numbers
Oklahoma Supreme Court Rule 1.36, Accelerated Appeal adopted effective October 1, 1993
Oklahoma District Court Rule 13 adopted, effective November 1, 1984
Began using summary judgment to reduce case load
1916
1922
1931
1937
1943
1949
1955
1964
1967
1976
1985
1991
1997
2003
2006
Years

IN THE SUPREME COURT OF THE
STATE OF OKLAHOMA

FILED
SUPREME COURT
STATE OF OKLAHOMA
FEB 9 2006
MICHAEL RICHIE
CLERK

Thursday, February 9, 2006

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:

100,560 American Yellow Checker Cab, Inc.; Tulsa yellow Cab, Inc., and Yellow Cab Inc. v. David Selver d/b/a Tulsa Taxi; and Yellow is Us, L.L.C.

Bankruptcy stay remains in effect. New report shall be filed by May 10, 2006.

101,237 (Cons w/102,405) Sarah M. Henry v. Barry J.Sims

Motion to allow time to complete briefing of counter appeal is granted.

102,115 Gary Daniel v. Chevrolet Motor Division, General Motors Corporation

Appellee's motion to indefinitely suspend proceeding is denied. Appellee is granted to February 22, 2006 to file his brief.

102,214 Tracy L. Kizer, now Ford v. Marquice M. Kizer

Appellee's answer brief was accepted January 31, 2006

102, 279 Stephanie Turner v. Farm Properties, Inc., d/b/a the Farm Shopping Center, an Oklahoma General Partnership

Appellant is granted to February 15, 2006 to file her brief.

102,356 Ronny Gene Altman, Trustee of the Ronny Gene Altman Revocable Trust, and S.N.S. Oil and Gas Properties, Inc., an Oklahoma Corporation, individually and on behalf of all other similarly situated v. Apache Corporation

Appellant is granted to February 16, 2006 to file its brief.

102,398 Robert Olson v. Continental Resources, Inc., an Oklahoma Corporation; Harold Hamm, an individual and President and Chief Executive Officer of Continental Resources, Inc.; Tom Luttrell, an individual and Vice President of Continental Resources, Inc.

Consideration, if any, of Appellant's request for permission to file a brief under Oklahoma Supreme Court Rule 1.36(g) is deferred.

102,825 Melvin Chilcoat v. Gary L. Tate, et al.

Gary Peterson is permitted to withdraw. The Court notes the address of appellants pro se.

102,932 Hong Thi Vu and Lars Pham, as Parents and next of kin to Ken Vu Pham, Deceased v. Linda J. Truitt, M.D., and Linda J. Truitt, P.C.

Motion to remove from accelerated procedure is denied.

102,947 Jerome J. Sprenger v. Sonja Sue Austin, et al.

Appellee's motion to dismiss is denied.

102,963 Lonnie Thomas v. Diane C. Wheat

Consideration of Motion to strike plaintiff/ appellant's appellate filings and dismiss appeal and appellant's motion for leave to comply with Oklahoma Supreme Court Rules is deferred to reviewing court.

s\ James B. Winchester
VICE CHIEF JUSTICE

CREDITOR BENEFICIARY CONTRACT

EXERPT FROM:

17B C.J.S. CONTRACTS § 620

A creditor beneficiary is a third party to whom a preexisting duty or liability is owed. (Footnote 57). A creditor beneficiary to a contract is one upon whom the promisee intends to confer the benefit of the performance of the contract and thereby discharge an obligation or duty that the promisee owes the beneficiary. (Footnote 58). Thus a person is a creditor beneficiary if no intention to make a gift appears from the terms of the promise, and promisor's performance of the contract discharges some legal duty owed to the beneficiary by the promisee. (Footnote 59). ... . While the creditor beneficiary contract embraces the situation in which the relationship between the promisee and the beneficiary is that of debtor and creditor. (Footnote 61) the obligation of the promisee, which the promisor agrees to perform, need not be for the payment of a money debt only. (Footnote 62).

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57. Ill.-- Hickox v. Bell. 195 Ill. App. 3d 976. 142 Ill. Dec.392. 552 N.E.2d 1133 (5th Dist. 1990).

58. Mo.-- OFW Corp. v. City of Columbia. 893 S.W.2d 876 (Mo. Ct. App. W.D. 1995).

59. U.S. -- City and Suburban Management Corp. v. First Bank of Richmond. 959 F. Supp. 660 (D. Del. 1997).

61. U.S.-- Donovan Const. Co. v. General Elec. Co., 133 F. Supp. 870 (D. Minn. 1955).

62. Cal.-- In re Marriage of Smith & Maescher. 21 Cal App. 4th 100 26 Cal. Rptr. 2d 133 (4th Dist. 1993).

NEW OKLAHOMA LEGISLATION

Exerpts from new Oklahoma legislation. It is my understanding that this new legislative initiative has been voted out of the Oklahoma House Judicial Committee on an 11 to 1 vote. RWO.

1. STATE OF OKLAHOMA
2nd Session of the 50th legislature (2006)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2760 By: Perry

COMMITTEE SUBSTITUTE

An Act relating to the Council on Judicial Complaints; amending 20 O.S. 2001, Sections 1651, 1653, 1654, 1658 and 1659, which relate to the Council; increasing membership; providing for initial appointments and qualifications; providing for a quorum; providing for successive appointments and qualifications; providing terms of office; and providing an effective date.

(In these exerpts, the deletions will be stricken through and the additions will be underlined: RWO)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 20 O.S. 2001, Section 1651, is amended to read as follows:

Section 1651. It is hereby declared to be the public policy of this state:

1. To afford a means for efficiently and impartially investigating complaints by any person concerning the conduct of persons occupying positions subject to the jurisdiction of the Court on the Judiciary;

2. To provide an agency which can determine whether such complaints should:

a. be made the subject of action before the Court on the Judiciary for the purpose of removal, ~~reprimand, or admonition, or~~

b. be made the subject of action before the Court on the Judiciary for the purpose of compulsory retirement.

c. be made the subject of action before a Trial Panel of the Court on the Judiciary for the purpose of imposing discipline less than removal or compulsory retirement, or

d. be dismissed

3. To provide means for procuring necessary information to enable the agency to perform its functions, including the power to issue and enforce subpoenas to testify or to produce tangible evidentiary materials; ~~and~~

4. To provide a means of prosecuting proceedings in which discipline less than removal or compulsory retirement is sought; and

5. To better the administration of justice in this state through the means enumerated in Sections 1651 through 1662 of this title.

SECTION 2. AMENDATORY 20 O.S. 2001, Section 1653, is amended to read as follows:

Section 1653. A. ~~The~~ 1. Until January 1, 2007, the Council on Judicial Complaints shall consist of three (3) members, only two of whom shall be members of the ~~Bar of the State of~~ Oklahoma Bar Association and only two of whom shall constitute a quorum. One member shall be appointed by the President Pro Tempore of the Senate; one member shall be appointed by the Speaker of the House of Representatives; and one member shall be appointed by the President of the Oklahoma Bar Association.

2. a. Beginning January 1, 2007, the Council on Judicial Complaints shall consist of five (5) members, only two of whom shall be members of the Oklahoma Bar Association. One member shall be appointed by the President Pro Tempore of the Senate; one member shall be appointed by the Speaker of the House of Representatives; one member shall be appointed by the Governor; and two members, who shall be members of the Oklahoma Bar Association, shall be appointed by the President of the Oklahoma Bar Association.

After this was written, I made a suggestion for a provision for an annual Minority Report if desired.

RWO

STATE OF OKLAHOMA

2nd Session of the 50th legislature (2006)

COMMITTEE SUBSTITUTE
FOR
HOUSE JOINT
RESOLUTION NO. 1028 By: Perry

COMMITTEE SUBSTITUTE

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection proposed amendments to Sections 1, 2, 3, 4, 5 and 6 of Article VII-A of the Constitution of the State of the State of Oklahoma; expanding membership and providing for composition; expanding disciplinary authority of the Court on the Judiciary; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 50TH OKLAHOMA LEGISLATURE

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendments to Sections 1, 2, 3, 4, 5 and 6 of Article VII-A of the Constitution of the State of Oklahoma to read as follows:

(In these exerpts, the deletions will be stricken through and the additions will be underlined; RWO)

Section 1. (a) In addition to other methods and causes prescribed by the Constitution and laws, the judges of any court, exercising judicial power under the provisions of Article VII of the Constitution, or under any other provision of the Constitution of Oklahoma, shall be subject to removal from office, ~~or to~~ compulsory retirement from , or lessor discipline for causes herein specified, by proceedings in the Court on the Judiciary.

(b) Cause for removal from office shall be: Gross neglect of duty; corruption in office; habitual drunkenness; commission while in office of any offense involving moral turpitude; gross partiality in office; oppression in office; and other grounds as may be specified hereinafter by the legislature.

(c) Cause for compulsory retirement from office, with or without compensation, shall be mental or physical disability preventing the proper performance of official duty, or incompetence to perform the duties of office.

(d) Cause for lesser discipline, including private or public reprimand or suspension, shall be misconduct, including failure to comply with court rules or violation of the Code of Judicial Conduct, that is not so serious as to warrant removal from office or compulsory retirement.

Section 2. (a) There is created a Court on the Judiciary, hereinafter referred to as the Court, divided into a Trial Division and an Appellate Division. The Court is vested, subject to the provisions of this Article, with sole and exclusive jurisdiction to hear and determine causes arising thereunder.

(b) ~~The~~ Until March 1 of the year following the adoption of this amendment, the Trial Division shall be composed of nine (9) members, eight (8) of whom shall be the district judges senior in service, but under sixty (60) years of age, with no two(2) from the same Supreme Court Judicial District (in case of equal seniority, the eldest in years to serve), and one (1) active member of the Oklahoma Bar Association, chosen by its ~~Executive Council~~ Board of Governors or other body exercising similar powers. Beginning March 1 of the year following the adoption of this amendment, the Trial Division shall be compsed of thirteen (13) members, eight (8) of whom shall be district judges senior in service, but under sixty (60) years of age, with no two (2) from the same Supreme Court Judicial District (in case of equal seniority, the eldest in years to serve), and one (1) active member of the Oklahoma Bar Association, chosen by its Board of Governors or other body exercising similar powers, and four (4) members who are not members of the Oklahoma Bar Association, two of whom shall be appointed by the Governor, one of whom shall be appointed by the the Speaker of the House of Representatives and one of whom shall be appointed by the President Pro Tempore of the Senate.

pg 2.5 of 9

After this was written, I made a suggestion for a provision for an annual Minority Report if desired.

RWO

Supreme Court, U.S.
FILED
MAY 8 2006
OFFICE OF THE CLERK

No. 05-1057

IN THE

Supreme Court of the United States

In re

ROBERT OLSON,

Petitioner,

vs

THE HONORABLE JUDGE
RONALD G. FRANKLIN,

Respondent.

Petition for Writ of Mandamus
Judicial Disqualification
From Oklahoma Supreme Court #101682

PETITION FOR AN EXTRAORDINARY
WRIT OF MANDAMUS

PETITION FOR REHEARING

Petitioner, Pro Se
Robert Olson
9022 E 60th St
Tulsa, Oklahoma
74145
918 252 1987

Opposing Counsel
Glenn A. Devoll
Firm: Gungoll, Jackson,
Collins, Box & Devoll, P.C.
P.O.Box 1549
Enid, Oklahoma 73702
580 234 0436

QUESTIONS

1. Does the Judiciary really respect the Code of Judicial Conduct? Is the use of the prestigious word "Canon" only for show? If the Code of Judicial Conduct is for real, it must be enforced. If it is not enforced, the Code of Judicial Conduct becomes a mere List of Suggestions.

2. For this legal action for judicial disqualification, the Supreme Court of the United States is the court of last resort. Is the Supreme Court of the United States the court of last resort for judicial integrity?

3. Is a judge to be given a free pass to violate the Code of Judicial Conduct and violate felony criminal statutes for the benefit of one party while presiding over a civil lawsuit?

4. How can the Supreme Court of the United states justify not disqualifying a judge who violated the Code of Judicial Conduct and violated Oklahoma Criminal Statutes for the benefit of one party and causing harm to the Petitioner, Robert Olson, approximately $93,503.27 while presiding over a civil lawsuit and an Alcoholic Beverage Laws Enforcement Commission agent was fired for violating policy by using the state issued car for personal business and misappropriating approximately $1192.00? See this Appendix E.

There is a misbehavior versus consequences disconnect here.

(b) ROBERT OLSON,

Plaintiff, Petitioner

vs.

JUDGE RONALD G. FRANKLIN,

District Judge of Blaine County,
Oklahoma,
Respondent.

Oklahoma Supreme Court Case #101682

ROBERT OLSON,

Plaintiff, Petitioner

vs.

CONTINENTAL RESOURCES, INC.,

an Oklahoma Corporation,

HAROLD HAMM,

an Individual and President
and Chief Executive Officer of
Continental Resources, Inc.,

TOM LUTTRELL,

an individual and Vice President of
Continental Resources, Inc.

AND

DAVIS OPERATING COMPANY,

an Oklahoma Corporation,

WILLIAM H. DAVIS,

an individual and President of
Davis Operating Company.

Base Case: Blaine County Oklahoma District Court
Case CJ-2004-121 , refile of CJ-2002-151

List of Attorneys and Interested Entities and Addresses

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Watonga, Oklahoma 73772

Judge Ray Dean Linder
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Alva, Oklahoma 73717

Judge Ronald G. Franklin
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Oklahoma Supreme Court
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State Capitol Building
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United States Court of Appeals, Third Circuit,
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United States Court of Appeals, Tenth Circuit,
United States v. Lang, 364 F.3d 1210;
Theft of Court Records — Rehearing Text 4

United States District Court, ND New York,
Connor v. New York State Commission on
Judicial Conduct, 260 F. Supp.2d 517;
ex parte communication — Rehearing Text 4

Phillips Petroleum Co., v. Taylor, et al.,
116 F.2d 994, U.S. Supreme Court,
313 U.S. 565
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APPENDIX H
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S.C.S. Const. Amend. 14, § 1 (2005)

Sec. 1. [citizens of the United States]

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C.A. § 455 (a)

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

REHEARING REQUEST TEXT

Judges have more power and prestige (As well as Judicial Immunity) than other governmental officials. Therefore judicial misbehavior can cause tremendous harm both to the individual citizen and to the reputation of the judiciary. Each judicial act of injustice creates a decrease in the credibility of the judiciary with an accompanying loss of trust and of respect for the judiciary. Each individual loss of respect for the judiciary is not significant. However, over time the loss of credibility and the loss of trust and respect is cumulative.

In Oklahoma, the fact that the Legislative Initiative was voted out of the Oklahoma House Judiciary Committee to the house floor on an 11-1 vote (See pages 37 - 42 of the appendix of the Supplemental Brief, U.S. No. 05-1057) prompted the Oklahoma Supreme Court to recognize the existence of the problem of judicial misbehavior and propose its own action (This Appendix B, C and D).

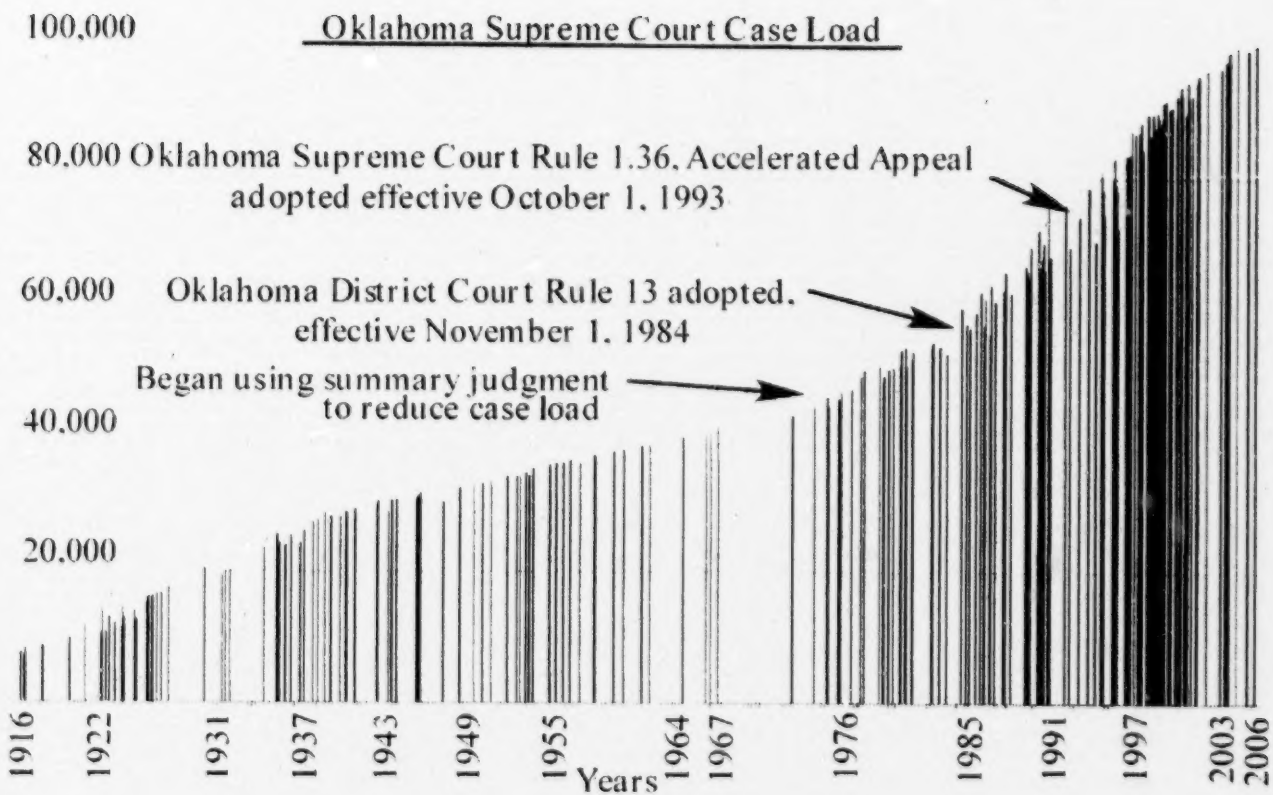
I have been personally financially harmed in the amount of approximately $93,503.27 in outright cash loss and approximately $937,125.00 in property loss, by judicial misconduct. My case provided the catalyst for the Legislative Initiative. However, my case alone would not have found any traction if there were not a longstanding popular distrust of the legal process in Oklahoma.

American citizens have a remarkable capacity for recognizing injustice and are collectively willing to express their condemnation of injustice at the ballot box.

Exhibit 1 indicates a dramatic citizen reaction to the injustice in the Oklahoma court system since 1975.

Rehearing Text 2

Exhibit 1



I have experienced this institutional injustice first hand on several occasions:

Kingfisher County	
SC-90-36, SC-90-37	Oklahoma Appeal # 75481
Kingfisher County	
CJ-93-33	Oklahoma Appeal # 84434
Kingfisher County	
CJ-96-249	Oklahoma Appeal SJ: #9 0518
	Oklahoma Appeal Trial: # 92786
	Oklahoma Appeal Costs: # 95289
Blaine County	
CJ-2002-151	Oklahoma Appeal # 99704
CJ-2004-121	Oklahoma Appeal # 101682

The Blaine County cases with the appeals and elicited evidence exhibit judicial violation of the Code of Judicial Conduct and felony violation of Oklahoma Criminal Statute Title 21 § 461 (Destruction of Court Records) for the benefit of one party in the lawsuit. This Appendix I.

Oklahoma Judge Ray Dean Linder has testified from the bench that that practice is commonplace in Oklahoma. (Petition for Writ of Mandamus, U.S. Appeal No. 05-1057, its appendix: pg 34, Ln 23; pg 35, Ln 24, 24; ps 36, Ln 9-25; pg 48, Ln 24-25 top; and pg 48, Ln 1.)

Exhibit 1 shows that that style of legal practice has existed in Oklahoma for the last 30 years.

The dismissal of Petitioner's Petition for Writ of Mandamus produces a result that is in conflict with:

1. United States Court of Appeals, Third Circuit, Johnson v. Carrol, 369 F.3d 253, ex parte Communication, and

2. United States Court of Appeals, Tenth Circuit, United States v. Lang, 364 F.3d 1210; Theft of Records

3. United States District Dourt, ND New York, Connor v. New York State Commission on Judicial Conduct, 260 F. Supp.2d 517, ex parte communication.

The above referenced dismissal decision also produces a result that is diametrically in conflict with Phillips Petroleum Co. v. Taylor, et al. , 116 F.2d 994, U.S. Supreme Court, 313 U.S. 565. This Appendix G .

CONCLUSION

Failure to hold any member of the judiciary to the published standards of the judiciary creates a climate of distrust.

Private property rights (The Fourteenth Amendment to the United States Constitution, This Appendix H) and the right to a fair, honest and independent judge (28 U.S.C.A. § 455(a)) are fundamental pillars of the American Way of Life.

These concepts must be upheld in every instance: big or small.

Sincerely submitted,

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